Other Considerations in Writing a Capital Budget

Major applicable state constitutional provisions

- One subject rule. Article 2, section 19 requires that a bill contain one subject and that subject be embraced in its title. The first part of the test requires a rational unity between the subparts of a bill; the second part requires that the subject be expressed in the bill title to give legislators notice of what the bill is about. Since budget bills have broad titles, such as "an act related to adopting a capital budget" or "an act relating to fiscal matters," courts traditionally have given the legislature a significant amount of latitude in this area and generally allow any subject reasonably germane to the budget to be included in the bill. However, this constitutional provision also restricts the legislature from making substantive law in the budget bill. (The courts generally consider three things when determining if a budget provision is substantive law: (1) whether it affects rights or liabilities; (2) whether it has been included in other legislation; and (3) whether it appears to outlast the biennium covered by the budget.)

- Appropriation Requirement. Article 8, section 4 requires an appropriation in legislation before money from funds and accounts in the state treasury may be expended. There are three parts to this: (1) it prohibits expenditures out of the state treasury without an appropriation; (2) it makes an appropriation temporary in nature (for that biennium including a 25th month); and (3) it requires each appropriation to specify an amount and a purpose. A few processes permit state agencies to make expenditures without an appropriation. Some accounts are non-appropriated and in the custody of the state treasurer and generally do not require a specific appropriation if the legislature establishes the account in that manner. Also, a statutory "unanticipated receipts" process permits expenditure of some non-state moneys without an appropriation if not anticipated in the budget and the legislature is notified and given an opportunity to comment.

- Lending of credit prohibition. Article 8, sections 5 and 7 prohibit the state and local governments from making gifts, loans, or otherwise providing credit or guarantees to or on behalf of individuals or non-government entities unless it is to assist the poor or infirm. These provisions are in addition to the Article 8, section 1 requirement that tax receipts be spent for a public purpose. When public funds go to non-government entities for purposes other than assisting the poor or infirm, the spending: (1) must be for a fundamental government purpose (such as the welfare of children); or (2) if not for a fundamental government purpose, the expenditure cannot be a loan or guarantee and must have adequate consideration. The private benefit must be incidental to the larger public benefit. Historically, public programs/expenditures that benefit a few individuals or businesses generally are considered more suspect by the courts, while public programs/expenditures that assist a large number of individuals are likely to be upheld by the courts. Expenditures with a clear purpose addressing a clear need, choosing the most reasonable fiscal/policy approach with safeguards to ensure the public purpose is accomplished are more likely to withstand a lending of credit challenge. Legislative acts, including appropriations in budget bills, are presumed to be constitutional by the courts.

- Governor Veto. Article 3, section 12 outlines the governor's veto power. Generally, for substantive/policy bills, the governor must veto an entire section. For budget bills, the governor cannot veto less than an entire proviso or subsection (an item). The governor's veto of budget items may result in a reduction of the appropriation; this applies to provisos which earmark funds within a lump sum appropriation.

- Debt limit. Article 8 section, 1 establishes a state debt limit. The debt limit is described in detail in other areas of this briefing book.

Other Items

- Operating expenses in the capital budget. There are several gray areas regarding whether a specific expenditure is more appropriately an operating expense or a capital expense. These areas include project administration expenses and FTEs, some building maintenance expenses, equipment, capital-related studies and planning efforts, etc. While there are some items in the capital budget that could be categorized as operating expenses, this appears to be a small part of the overall budget (except for the $52 million appropriated for higher education facility maintenance), especially for those projects funded using state bonds. One of the areas of concern raised in the 2003 session was equipment. At the legislature's request, the Office of Financial Management developed criteria it recommends to be used for decisions on funding equipment in the capital budget. That recommendation is enclosed.

- Minor works appropriations. Minor works appropriations are one lump sum to cover numerous similar small projects costing between $25,000 and $1 million. Minor works appropriations fall into 4 categories: health, safety, and code requirements; facility preservation; infrastructure preservation; and program improvement. These projects are intended to improve existing facilities or related infrastructure. The agency must file minor works lists with OFM and cannot expend or obligate funds until OFM has approved the lists. Minor works appropriations are not to be used for studies unless specifically authorized in the capital budget.

  Some agencies may not always be following the intent of minor works appropriations or the required OFM approval process. Examples include using minor works funds to acquire land/facilities and to cover costs on major projects.

Equipment Criteria for Capital Budgets

Definition of Equipment

Equipment, as defined in the State Administrative and Accounting Manual (SAAM), is tangible property other than land, buildings, improvements other than buildings, or infrastructure, which is used in operations and with a useful life of more than one year. Examples are furnishings, equipment, and software. Equipment may be attached to a structure for purposes of securing the item, but unless it is permanently attached to, or an integral part of, the building structure, it is classified as equipment and not buildings (http://www.ofm.wa.gov/policy/glossary.htm). Useful lives for equipment are documented in the SAAM (http://www.ofm.wa.gov/policy/30.50.htm).

Categories of Equipment

For purposes of capital budgeting, there are four categories of equipment.

1) Built-in equipment is permanently attached to the building or improvement, without which the building or improvement will not function. It is an integral part of the structure and for purposes of classification is considered part of the structure. Built-in equipment is generally included in the base construction budget and estimate (section C of the C-100, Agency/Institution Project Cost Estimate). Examples of built-in equipment are plumbing fixtures and heating and electrical equipment.

2) Fixed equipment is attached to the building or improvement for purposes of securing the item and contributes to the facility's function. Fixed equipment is generally included in the base construction budget and estimate (section C of the C-100, Agency/Institution Project Cost Estimate). Examples of fixed equipment include shelving, cabinets, and bolted furniture.

3) Movable equipment is equipment necessary for the functioning of the building or improvement and remains with the facility in support of a program, but is not attached to the building or improvement. Movable equipment is generally included in a separate equipment budget and estimate (section D of the C-100, Agency/Institution Project Cost Estimate). Examples of movable equipment include desks and computers.

4) Temporary equipment is equipment that is planned to be used in a building or improvement for a period less than its useful life. An example of temporary equipment is the use of research equipment for a short-term project.

Guidelines

The following guidelines will be utilized to determine the eligibility of equipment as a capital expenditure.

1) Built-in equipment is an eligible capital expenditure.

2) If the building or improvement is constructed/improved for new program requirements with no existing operating budget, fixed and movable equipment to provide a complete, functioning facility are eligible as a capital expenditure if:

A) the average useful life of the total equipment purchase is 13 years or more if bond funds are utilized, or

B) the useful life of the equipment is one year or more if cash is utilized.

3) If the building or improvement is constructed/improved for use or relocation of an existing program, fixed and movable equipment costs are eligible if:

A) the average useful life of the total equipment purchase is 13 years or more if bond funds are utilized or

B) the useful life of the equipment is one year or more if cash is utilized, and

C) the existing program equipment is inventoried and documented that it cannot meet the requirements of the new facility.

4) Temporary equipment is an eligible capital expenditure if the equipment fits one of the categories above and the disposal proceeds are recovered by the fund that originally financed the purchase of the equipment.

5) Individual components of a system are considered eligible if they are dedicated or proprietary components of a larger system and the larger system is eligible as a capital expenditure. Examples include dedicated software and control systems to support heating and ventilation units.

6) Exceptions will be made on a case-by-case basis.

7) The Office of the State Treasurer's lease/purchase program should be considered for non-eligible equipment.

Non-Eligible Equipment Expenses

Consumable inventories as defined in the SAAM are supplies consumed in the course of an agency's operation or incidental items held for resale (http://www.ofm.wa.gov/policy/glossary.htm). Consumable inventories are not eligible capital expenditures. Examples include office, janitorial, chemical supplies, and laboratory glassware.

Software is not an eligible expenditure if it is not dedicated to the control of a specialized system supporting a program. Examples that are not eligible include word processing and project management software.

Spare or replacement parts and equipment are not eligible expenditures.

Traditionally funded operating equipment or specifically prohibited equipment such as fax machines, copiers, custodial equipment, rolling stock, and grounds equipment are not eligible expenditures.

The cost of moving furniture, equipment, and supplies between facilities is not an eligible capital expenditure.

Master Planning

Master Planning and Strategic Planning

A master plan considers future facility and infrastructure needs which are generated by an agency's mission statement, strategic plan and, in the case of higher education, corresponding academic program. The strategic plan is the framework for the master plan. It answers the question of "Where do you want to go?" Without a strategic plan, a master plan responds only to existing programs and existing buildings; it reacts only to the status quo rather than anticipating what an agency must do in the future and how it must change to accomplish its objectives.

Capital and Operating Budgets

One of the chief benefits of master planning is that when properly done, it enables an agency to better coordinate operating and capital budgets and timing of large expenditures. This provides opportunities for better decision making, better use of existing land and facilities, avoids waste and disruption resulting from piecemeal projects, and helps to establish a realistic schedule and capital budget.

Master Plans Currently in Development

The Legislature has funded several initial master plans and master plan updates. During the 2003 session, the Department of Corrections, Department of Social and Health Services and Department of General Administration received funding for one or more master plans and some community colleges were directed to use project funds to amend master plan documents and complete infrastructure planning to maintain consistency between strategic and facilities master plans.

The Department of Corrections will focus on a statewide master plan which will also include an analysis of forecasted offender population growth by gender and custody level, including medical, infrastructure and facility needs.

The Department of Social and Health Services is undertaking two related master planning efforts: Juvenile Rehabilitation Administration and an acute mental health unit and program. This planning effort will focus on optimum sizing of the program based on declining overall population with an increasing need for mental health treatment.

The Department of General Administration will update its existing state capitol master plan which is over 10 years old. The Department seeks additional funding in the supplemental budget to complete this update.